

MINUTES OF THE MEETING OF THE BOARD OF MASSAGE THERAPY

February 12, 2016

These minutes were
approved by the Board on
4/22/2016

1. ROLL CALL

The meeting of the Board of Massage Therapy was called to order by Hupka, Chairperson, at 9:41 a.m. in the Chamber Room, Country Inn & Suites, 5353 N. 27th Street, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meetings Law.

The following members answered roll call:

| | | | |
|--|-------------------|---|-------------|
| <u>Members Present:</u> | Kim Adams Johnson | - | Vice-Chair |
| | Brian Allison | - | Secretary |
| | Michelle Helaney | - | Member |
| | Keli Hupka | - | Chairperson |
| <u>Others Present:</u> | | | |
| Ami Huff, Assistant Attorney General | | | |
| Kris Chiles, Program Manager, Licensure Unit | | | |
| Russ Fosler, Investigator | | | |
| Carla Cue, Investigator | | | |

2. ADOPTION OF AGENDA

MOTION: Adams Johnson moved, seconded by Helaney, to adopt the agenda. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

3. APPROVAL OF MINUTES (12-4-15)

MOTION: Adams Johnson moved, seconded by Helaney, to approve the minutes of December 4, 2015. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

4. INVESTIGATIVE REPORTS & OTHER CONFIDENTIAL INFORMATION – CLOSED SESSION

MOTION: Helaney moved, seconded by Adams Johnson, to enter into closed session at 9:42 a.m. to hear discussions of an investigational/confidential nature for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

10:10 a.m. - Fosler and Cue departed meeting

MOTION: Helaney moved, seconded by Adams Johnson, to enter into open session at 10:25 a.m. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

5. REVIEW AND RECOMMENDATIONS – OPEN SESSION

- Applications, Reinstatements, Out-of-State Training Programs

Applications: Operation without a license

EveryBody Massage Therapy

MOTION: Adams Johnson moved, seconded by Hupka, to recommend offering a 6-month probationary massage therapy establishment license, to include the standard terms and conditions and the following: Owner must complete 3 hours of ethics (pre-approved by the Board). The board also recommended that the Department assess an administrative fee for the days operated without a license. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Motion carried.

Lakeside Wellness Center

MOTION: Allison moved, seconded by Helaney, to not take any additional action other than the Department assessing an administrative fee for the days operated without a license. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Motion carried.

Therapeutic Massage by Harms

MOTION: Allison moved, seconded by Helaney, to not take any additional action other than the Department assessing an administrative fee for the days operated without a license. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Motion carried.

10:30 a.m. - Break
10:35 a.m. - Meeting resumed

6. UNFINISHED BUSINESS

a. Review/Revision of Conviction Review Guidelines

10:41 a.m. - Allison departed meeting
10:48 a.m. - Allison entered meeting
10:47 a.m. - Teresa Hampton, Department attorney, entered meeting
10:53 a.m. - Public person entered meeting

The Board reviewed the Conviction Review Guidelines and made recommendations for changes. Chiles will provide the draft revised Guidelines to the Board for review and approval at the April meeting.

b. Other

There was no other unfinished business.

7. NEW BUSINESS

a. Correspondence

There was correspondence received that discussed a model for the examination as counting as continuing education. The Board reviewed 81-006.02 and determined that taking the examination was not a model.

b. Method of Noticing Board Meetings

Chiles reported meeting notices were currently on the DHHS website, posted on the bulletin board in the Licensure Unit and mailed to anyone who made a request.

MOTION: Helaney moved, seconded by Allison, to keep the noticing of meetings the same as 2015. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Motion carried.

c. Other

The Board discussed a consumer brochure and how could massage therapists help with promoting license regulation changes. The Board discussed that 44 states license massage therapists.

8. UPDATES AND REPORTS

a. 2016 Legislative Session

Chiles reported the session began January 6, 2016 and would end April 20, 2016. Chiles provided the following information:

LB859 amends statutes in the Uniform Credentialing Act related to cease and desist orders from Nebraska licensing boards to prevent violations of federal antitrust law in light of a recent U.S. Supreme Court decision, *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. The bill ensures the members of state licensing boards continue to receive the state's immunity from federal antitrust lawsuits while performing their duties related to addressing unlicensed practice of professions. The bill moves the authority to issue cease and desist orders from the individual boards, to the director of the Division of Public Health with the recommendation of such board.

The intent of LB 947 is to declare that a person who is work authorized is eligible to obtain a professional or commercial license in order to practice his or her profession. For the purposes of obtaining a license, section 202(c)(2)(B)(i) through (ix) of the federal REAL ID Act of 2005, Public Law 109-13 enumerates the categories of work authorized individuals who may demonstrate lawful presence under Neb. Rev. Stat. 4-108 for the purposes of obtaining a professional or commercial license. The categories of eligible individuals exactly mirrors the population that were granted eligibility to secure a motor vehicle operator's license or state identification card in 2015 through LB 623.

b. Nebraska Chapter of AMTA

Adams Johnson reported they are looking into a new person as liaison for government relations. She reported the president stepped down and Becky Olson is the interim president with elections being in April.

c. Federation of State Massage Therapy Boards

Adams Johnson reported the MBLEX study guides were out and she passed around a copy.

Adams Johnson attended the FARB meeting and items discussed were:

- North Carolina dentistry case regarding cease and desist orders by boards
- Cell phone use at meetings (if in a hearing and on the phone and subject believes outside conversations are going on, the call could be subpoenaed)
- Engaged board members at meetings
- Open meetings rules (e-mail thread, do not respond to all as it could be construed as a meeting)
- Cognizant of role as member and public perception
- Dale Atkinson presented cases and Nebraska case was brought up
- Kryotherapy case in Nevada regarding liquid nitrogen and oxygen to assist with weight loss/aging/sore muscles

The next FSMTB meeting is February 26-27, 2016. At the annual meeting the delegation asked for a task force to be put together to look into ways to combat human trafficking. The issues are: 1) fraudulent license; 2) not all human trafficking includes prostitution and 3) false transcripts.

d. National Certification Board for Therapeutic Massage & Bodywork

Adams Johnson reported NCBTMB was creating specialty certifications in prenatal, oncology and sport.

e. Statistics: Examinations / Licensing / Administrative Penalties / Renewals / Disciplinary and Non-Disciplinary Information / School Report

Chiles distributed the Disciplinary/Non-Disciplinary report.

Chiles reported the following examination information for 12-5-15 to 2-11-16:

Examination

- | | |
|------------------------------|----------------|
| • Jurisprudence -probation | 1 pass |
| • Jurisprudence -reciprocity | 7 pass, 1 fail |
| • MBLEx | 6 pass |

Chiles reported the following license statistics:

Licenses

- | | |
|---|------|
| • Massage Therapist | 1328 |
| • Massage Therapy Establishment | 496 |
| • Massage Therapy School | 7 |
| • Out-of-State Massage Therapy Training | 2 |
| • Temporary Massage Therapist | 1 |

| | | |
|------------|---|--|
| 11:47 a.m. | - | Huff departed meeting |
| 11:50 a.m. | - | Break |
| Noon | - | Meeting resumed, Hupka entered meeting |

f. Other

There was no information to report.

9. Working Lunch

10. Regulation Work Session

The Board proceeded to the regulation work session at approximately noon. The purpose of the work session was to review and discuss revisions to the regulations (Chapters 81, 82, 83).

11. Adjournment

There being no further business, Hupka declared the meeting of the Board of Massage Therapy adjourned at 2:07 p.m.

Respectfully Submitted,

Brian Allison, Secretary
Board of Massage Therapy